

§ 4.06-70

§ 4.06-70 Penalties.

Violation of this part is subject to the civil penalties set forth in 46 U.S.C. 2115.

[USCG-2001-8773, 70 FR 75961, Dec. 22, 2005]

Subpart 4.07—Investigations

§ 4.07-1 Commandant or District Commander to order investigation.

(a) The Commandant or District Commander upon receipt of information of a marine casualty or accident, will immediately cause such investigation as may be necessary in accordance with the regulations in this part.

(b) The investigations of marine casualties and accidents and the determinations made are for the purpose of taking appropriate measures for promoting safety of life and property at sea, and are not intended to fix civil or criminal responsibility.

(c) The investigation will determine as closely as possible:

(1) The cause of the accident;

(2) Whether there is evidence that any failure of material (either physical or design) was involved or contributed to the casualty, so that proper recommendations for the prevention of the recurrence of similar casualties may be made;

(3) Whether there is evidence that any act of misconduct, inattention to duty, negligence or willful violation of the law on the part of any licensed or certificated person contributed to the casualty, so that appropriate proceedings against the license or certificate of such person may be recommended and taken under 46 U.S.C. 6301;

(4) Whether there is evidence that any Coast Guard personnel or any representative or employee of any other government agency or any other person caused or contributed to the cause of the casualty; or,

(5) Whether the accident shall be further investigated by a Marine Board of Investigation in accordance with regulations in subpart 4.09.

[CGD 74-119, 39 FR 33317, Sept. 17, 1974, as amended by CGD 97-057, 62 FR 51041, Sept. 30, 1997]

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§ 4.07-5 Investigating officers, powers of.

(a) An investigating officer investigates each marine casualty or accident reported under §§ 4.05-1 and 4.05-10.

(b) Such investigating officer shall have the power to administer oaths, subpoena witnesses, require persons having knowledge of the subject matter of the investigation to answer questionnaires and require the production of relevant books, papers, documents and other records.

(c) Attendance of witnesses or the production of books, papers, documents or any other evidence shall be compelled by a similar process as in the United States District Court.

[CGFR 65-50, 30 FR 17099, Dec. 30, 1965, as amended by CGD-104R, 37 FR 14234, July 18, 1972]

§ 4.07-7 Opening statement.

The investigating officer or the Chairman of a Marine Board of Investigation shall open the investigation by announcing the statutory authority for the proceeding and he shall advise parties in interest concerning their rights to be represented by counsel, to examine and cross-examine witnesses, and to call witnesses in their own behalf.

§ 4.07-10 Report of investigation.

(a) At the conclusion of the investigation the investigating officer shall submit to the Commandant via the Officer in Charge, Marine Inspection, and the District Commander, a full and complete report of the facts as determined by his investigation, together with his opinions and recommendations in the premises. The Officer in Charge, Marine Inspection, and the District Commander shall forward the investigating officer's report to the Commandant with an endorsement stating:

(1) Approval or otherwise of the findings of fact, conclusions and recommendations;

(2) Any action taken with respect to the recommendations;

(3) Whether or not any action has been or will be taken under part 5 of this subchapter to suspend or revoke licenses or certificates; and,

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(4) Whether or not violations of laws or regulations relating to vessels have been reported on Form CG-2636, report of violation of navigation laws.

(b) At the conclusion of the investigation, the investigating officer shall submit the report described in paragraph (a) of this section, to the Commandant via the Merchant Marine Detail Officer or the Officer in Charge, Marine Inspection, and the Commander, Coast Guard MIO Europe for a European port or Commander, Fourteenth Coast Guard for an Asian or Pacific port. The Merchant Marine Detail Officer or the Officer in Charge, Marine Inspection, and Commander, Coast Guard MIO Europe or Commander, Fourteenth Coast Guard District shall forward the investigating officer's report to the Commandant with the endorsement described in paragraphs (a) (1) through (4) of this section.

[CGD 74-119, 39 FR 33317, Sept. 17, 1974, as amended by CGD 75-196, 41 FR 18655, May 6, 1976; CGD 97-057, 62 FR 51042, Sept. 30, 1997]

§4.07-15 Recommendations, action on.

Where the recommendations of an investigating officer are such that their accomplishment is within the authority of the District Commander or any of the personnel under his command, immediate steps shall be taken to put them into effect and his forwarding endorsement shall so indicate.

§4.07-20 Transfer of jurisdiction.

When it appears to the District Commander that it is more advantageous to conduct an investigation in a district other than in the district where the casualty was first reported, that officer shall transfer the case to the other district together with any information or material relative to the casualty he may have.

§4.07-25 Testimony of witnesses in other districts, depositions.

When witnesses are available in a district other than the district in which the investigation is being made, testimony or statements shall be taken from witnesses in the other districts by an investigating officer and promptly transmitted to the investigating officer conducting the investigation. Depositions may be taken in the manner

prescribed by regulations in subpart 4.12.

§4.07-30 Testimony of witnesses under oath.

(a) Witnesses to marine casualties or accidents appearing before an investigating officer may be placed under oath and their testimony may be reduced to writing.

(b) Written statements and reports submitted as evidence by witnesses shall be sworn to before an officer authorized to administer oaths and such statements and/or reports shall be signed.

§4.07-35 Counsel for witnesses and parties in interest.

(a) All parties in interest shall be allowed to be represented by counsel, to examine and cross-examine witnesses and to call witnesses in their own behalf.

(b) Witnesses who are not parties in interest may be assisted by counsel for the purpose of advising such witnesses concerning their rights; however, such counsel will not be permitted to examine or cross-examine other witnesses or otherwise participate in the investigation.

§4.07-45 Foreign units of Coast Guard, investigation by.

Investigations of marine casualties conducted by foreign units of the Coast Guard shall be in accordance with the regulations in this part and all actions taken in connection with the investigations of such marine casualties entered in the official log(s) of the vessel(s) concerned.

§4.07-55 Information to be furnished Marine Board of Investigation.

When a Marine Board of Investigation is convened in accordance with §4.09-1, the investigating officer shall immediately furnish the board with all testimony, statements, reports, documents, papers, a list of witnesses including those whom he has examined, other material which he may have gathered, and a statement of any findings of fact which he may have determined. The preliminary investigation shall cease forthwith and the aforementioned material shall become a